

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ONITA DAVIS and U.S. POSTAL SERVICE,
POST OFFICE, Cleveland, Ohio

*Docket No. 97-987; Submitted on the Record;
Issued December 11, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has met her burden of proof to establish that she sustained an injury that was caused by factors of her federal employment.

The Board has duly reviewed the case record in this appeal and finds that appellant has failed to meet her burden of proof to establish that she sustained an injury caused by factors of her federal employment.

On June 28, 1996 appellant, then a retired window services technician, filed a claim for an occupational disease (Form CA-2) alleging that on September 15, 1993, she became aware that she sustained an injury that was caused or aggravated by her federal employment.¹ Appellant retired from the employing establishment on October 2, 1992. Appellant's claim was accompanied by employment records and medical evidence.

By letter dated July 30, 1996, the Office of Workers' Compensation Programs advised appellant that the evidence submitted was insufficient to establish her claim. The Office also advised appellant to answer specific questions regarding her condition. In an August 21, 1996 response letter, appellant submitted factual evidence.

By letter dated September 3, 1996, the Office advised appellant to submit medical evidence supportive of her claim.

By decision dated September 23, 1996, the Office found the medical evidence of record insufficient to establish that appellant sustained an injury causally related to factors of her federal employment. On December 2, 1996 appellant requested reconsideration of the Office's decision.

¹ Previously, appellant filed a claim, assigned number A9-347403, which was accepted for a crush injury of the left finger and osteoarthritis of the left knee.

By decision dated December 9, 1996, the Office denied appellant's request for modification based on a merit review of the claim.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.²

Appellant has failed to submit any rationalized medical evidence of record establishing that she sustained an injury caused by factors of her federal employment. Appellant submitted unsigned medical treatment notes covering the period May 24, 1990 through February 20, 1995. Any medical evidence relied upon by the Office to resolve an issue must be signed by a physician.³ Therefore, the Board finds that these treatment notes do not constitute competent medical evidence.

A February 20, 1995 x-ray report of Dr. Lawrence M. Lubbers, a Board-certified orthopedic surgeon, indicated that appellant's left hand was normal. His February 20, 1995 medical report revealed a history of appellant's employment-related crushed index finger and his findings on physical examination. Dr. Lubbers stated that appellant most likely had an ongoing reflex sympathetic dystrophy involving the index finger. He further stated that appellant's diagnosis could possibly be proven with a bone scan. Dr. Lubbers recommended that Dr. Chrisanne Gordon, a Board-certified physiatrist, perform an electromyogram (EMG) nerve conduction test and an evaluation to ascertain a causal relationship between any reflex dystrophy and/or carpal tunnel and appellant's job. He concluded that appellant had changes of first carpometacarpal (CMC) arthritis involving the base of the thumb and recommended an injection in this area. Dr. Lubbers further concluded that this should be treated as a separate claim. His March 6, 1995 report indicated that the x-ray of appellant's CMC joint did not demonstrate very much arthritis and that the EMG was normal. Dr. Lubbers recommended that appellant have a bone scan to rule out sympathetic dystrophy. In a February 19, 1996 medical report, he provided a history of appellant's employment-related crushed index, and his findings on physical and

² *Victor J. Woodhams*, 41 ECAB 345 (1989).

³ *James A. Long*, 40 ECAB 538, 541 (1989).

objective examination. Dr. Lubbers opined that there was no evidence of fracture or dislocation in the index finger. His March 6, 1996 treatment notes revealed no evidence of reflex sympathetic dystrophy or carpal tunnel syndrome, and a normal x-ray and bone scan regarding the first CMC joints. Regarding appellant's thumb, Dr. Lubbers' recommended medical treatment and a follow-up with Dr. Richard H. Norcutt, an orthopedic surgeon. Dr. Lubbers' reports and treatment notes are insufficient to establish appellant's burden because they do not establish that appellant sustained an injury caused by factors of her federal employment.

An unsigned short hand evaluation dated February 20, 1995 does not constitute competent medical evidence because it was not signed by a physician.⁴

The March 6, 1995 EMG nerve conduction test results of Dr. Gordon revealed no evidence of denervation of the left upper extremity and paraspinals. His nerve conduction test results of the same date revealed no evidence of nerve compression of the left upper extremity and paraspinals. Dr. Gordon's EMG results fail to establish that appellant sustained an injury caused by factors of her federal employment.

Dr. Norcutt's treatment notes covering the period October 10, 1995 through August 8, 1996 revealed a diagnosis of advanced degenerative arthritis grade 4 of the left knee, degenerative arthritis of the left first CMC joint, carpal tunnel syndrome of the left wrist, neuritis of the left arm and advanced osteoarthritis of the left knee. His treatment notes are insufficient to establish appellant's burden because they do not address a causal relationship between appellant's conditions and factors of her federal employment.

Dr. Norcutt's January 26, 1996 treatment note indicated a normal nerve conduction study of the left upper extremity. In an October 18, 1996 medical report, he provided that appellant had carpal tunnel syndrome of the left wrist. Dr. Norcutt stated that he did not relate any of appellant's carpal tunnel symptoms to a problem in the cervical spine at that time. He further stated that he did not relate any of appellant's carpal tunnel symptoms to any employment in or around August 1992. Dr. Norcutt also stated that appellant had advanced osteoarthritis of the first CMC joint of the left hand which was symptomatic and unrelated to a specific work-related environment or activity. His treatment note and medical report failed to establish that appellant sustained an injury caused by factors of her federal employment.

A November 3, 1995 medical note of W. Scott Bolz, a Board-certified orthopedic surgeon, revealed a diagnosis of marked osteoarthritis of the CMC joint of the left thumb. This note is insufficient to establish appellant's burden inasmuch as it failed to address causal relationship.

A January 25, 1996 EMG/nerve conduction velocity study of Dr. Stephen A. Hill, a Board-certified psychiatrist and neurologist, was normal. His study failed to establish that appellant sustained an injury caused by factors of her federal employment.

⁴ *Id.*

Although the Office advised appellant of the type of medical evidence needed to establish her claim, appellant failed to submit medical evidence responsive to the request. Consequently, appellant has not established that she sustained an injury caused by factors of her federal employment.

The December 9 and September 23, 1996 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, D.C.
December 11, 1998

Michael J. Walsh
Chairman

David S. Gerson
Member

Willie T.C. Thomas
Alternate Member